

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Donnell Harris,	:	
	:	
Petitioner(s),	:	
	:	Case Number: 1:16cv795
vs.	:	
	:	Judge Susan J. Dlott
Warden, London Correctional Institution,	:	
	:	
Respondent(s).	:	

ORDER

This matter is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and filed with this Court on June 12, 2017 a Report and Recommendation (Doc. 13). Subsequently, the petitioner filed objections to such Report and Recommendation (Doc. 14).

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered de novo all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Recommendation should be adopted.

Accordingly, petitioner's motion for leave to file motion of default (Doc. 7) is DENIED.

The respondent's motion to dismiss (Doc. 6) is GRANTED and petitioner's *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 (Doc. 3) is DISMISSED with prejudice on the ground that it is time-barred.

A certificate of appealability will not issue with respect to any of the claims for relief alleged in the petitioner, which this Court has concluded are procedurally barred from review on

statute-of-limitations grounds, because under the first prong of the applicable two-part standard enunciated in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), “jurists of reason” will not find it debatable whether the Court is correct in its procedural ruling.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court certifies pursuant to 28 U.S.C. §1915(a)(3) that an appeal of any Order adopting the Report and Recommendation will not be taken in “good faith,” and therefore, DENY petitioner’s leave to appeal *in forma pauperis* upon showing of financial necessity. *See* Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997).

IT IS SO ORDERED.

s/Susan J. Dlott
Judge Susan J. Dlott
United States District Court